

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9326 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

LALITABEN V GHARANIYA

Versus

A M C

Appearance:

MR PF MAKWANA for Petitioner

MR PRASHANT G DESAI for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 29/03/2001

ORAL JUDGEMENT

This is a petition filed by the petitioner against the Ahmedabad Municipal Corporation complaining that the officers of the respondent Corporation are threatening to dispossess her without due process of law, which they are not entitled to, and for consequential reliefs.

2. The petitioner has based the entire petition on the assertion that the petitioner and her family are

residing in a kachha hut constructed by her. It appears to be an admitted position that the land over which such kachha hut is constructed belongs to the respondent Corporation. The petition is also based on an apprehension that she will be dispossessed without due process of law. This apprehension arises from her perception of the conduct of the officers of the respondent Corporation, who according to the petitioner, periodically visit the site and threaten dispossession. On the one hand the petitioner contends that she cannot be dispossessed without due regards of law and on the other hand she contends that she is "legally entitled" to retain possession of the kachha hut and the land on which it stands. It is pertinent to note that apart from a bare assertion of the legality of the petitioner's possession, the petitioner has submitted not an iota of even prima facie proof.

3. The respondent Corporation has not filed any affidavit-in-reply to the petition.

4. From this state of the record it becomes obvious as aforesaid that the petition is based entirely upon the apprehensions and no actual action has been initiated by the respondent Corporation. It is equally obvious that if the respondent Corporation intends to evict the petitioner, it must take recourse to law, and for this purpose can only exercise such powers as are available to the Corporation in law.

5. In the premises aforesaid interest of justice would be met by directing the respondent Corporation not to dispossess the petitioner except by exercising powers available to the Corporation, and following the necessary legal procedure, under law. It is accordingly so directed.

6. This petition is disposed of accordingly with no order as to costs. Rule is discharged. Interim relief stands vacated.

rmr. =====